REMARKS/ARGUMENTS

Claims 2-6, 9, 12, and 20-24 are currently pending. Claims 2-6, 9, 12, and 20-24 are currently amended. Claims 1 and 11 are presently cancelled, and Claims 7, 8, 10, and 13-19 were previously cancelled. No new claims have been added.

In the Office Action dated 27 April 2011, the Examiner objected to Claims 1-6, 9, 11, 12, and 20-24. The Examiner noted antecedent basis issues in various claims and suggested two corrections for grammatical errors in Claims 2 and 20. The Applicants have amended Claims 2 and 20 as suggested by the Examiner and amended Claims 3-6, 9, 12, and 21-24 to correct the antecedent issues. Withdrawal of this objection is requested.

Claims 2, 5, 6, 9, 12, and 22-24 have been rejected under 35 U.S.C. 102(b) as being anticipated by Kranz. The Applicants respectfully submit that Kranz does not anticipate the present claims.

For a cited reference to anticipate a claim under § 102(b), "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Amended independent Claim 2 requires, in part, "a stent having … at least one unitary core marker element welded to at least one leg, the unitary core marker element including a comparatively radiopaque material filling the interior and completely enclosed by a unitary cover layer." The amended claim further requires the "comparatively radiopaque material and the unitary cover layer form a core filled wire, wherein the metal forming the carrier structure and the unitary cover layer are each made from a material that is at least partially a titanium nickel alloy." As illustrated in Figures 1-3 and discussed in paragraphs [0022] - [0025], Applicant's stent includes a carrier structure made from legs 12 and 16 cut from nitinol material, the unitary core marker elements 22 are made from core filled wire 30 having a core 32 made of X-ray opaque material, e.g., gold, where the core 32 is completely enclosed by carrier material 34, i.e., nitinol or titanium nickel alloy. Figure 3 (shown below) illustrates a cross section of a unitary core marker element where the core 32 is completely enclosed by a unitary carrier material 34.

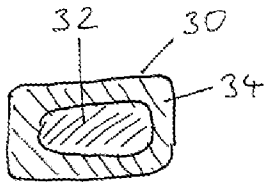


Fig. 3

In contrast, Kranz does not disclose a stent having a unitary marking element where the metal forming the carrier structure and the unitary cover layer are each made from a material that is at least partially a titanium nickel alloy. Instead, Kranz discloses a silicone carbide micro-coating. Therefore, Kranz does not disclose a unitary core marker element completely enclosed by a unitary carrier material made at least partially by a titanium nickel alloy, as required by independent Claim 2.

Claim 2 is therefore allowable. As claims 5, 6, 9, 12, and 22-24 are dependent on claim 2, claims 5, 6, 9, 12, and 22-24 are also allowable. Applicants request that the examiner withdraw this rejeciton

Claims 2-4, 9, 11, 12, and 22-24 were rejected under 35 U.S.C. 102(b) as being anticipated by Callol. The Applicants respectfully submit that Callol does not anticipate the present claims.

As discussed above, amended independent Claim 2 requires, in part, "the unitary core marker element including a comparatively radiopaque material filling the interior and completely enclosed by a unitary cover layer." As illustrated above in Fig. 3 and discussed in paragraph [0025], Applicant's stent includes a unitary core marker element 22 where the comparatively radiopaque material fills the interior of the unitary core marker element. In contrast, Callol does not disclose a unitary marker element where the comparatively radiopaque material fills the interior of the unitary marker element. Instead, Callol discloses a stent 10 that is coated with a radiopaque layer 14, i.e., the marker in Callol does not fill the interior because it does not have an interior that forms a unitary core that is enclosed by a

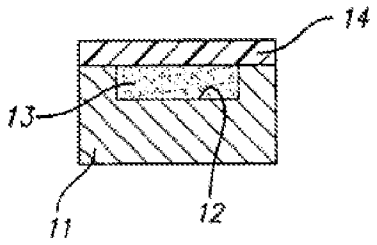
unitary cover layer. Therefore, Callol does not disclose a unitary core marker element including a comparatively radiopaque material filling the interior and completely enclosed by a unitary cover layer, as required by independent Claim 2.

Thus, Claim 2 is allowable. As Claims 3-4, 9, 11, 12, and 22-24 are dependent on Claim 2, Claims 3-4, 9, 11, 12, and 22-24 are also allowable. Applicants request that the Examiner withdraw this rejection.

Claims 1-4, 6, 9, 11, 12, and 20-24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Dang. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Applicant submits that Dang also fails to teach or suggest "a stent having … at least one unitary core marker element welded to at least one leg, the unitary core marker element including a comparatively radiopaque material filling the interior and completely enclosed by a unitary cover layer," as required by independent Claims 2 and 20.

In the Office Action, the Office states that the stent in Dang is "produced from a cut out metal tube stock … the radiopaque material is incorporated in cylindrical cut grooves around the circumference of the tube stock … the cylindrical cut grooves are then covered over with the sputtering agent." As shown in Fig. 5 of Dang (illustrated below), the tube stock 11, radiopaque strips 13, and the sputtering agent 14 are three distinct components. Applicant respectfully asserts that the radiopaque strips 13 in Dang do not disclose or suggest a unitary core marker element having a comparatively radiopaque material filling the interior and completely enclosed by a unitary cover layer, as required by amended independent Claims 2 and 20. In other words, Dang discloses radiopaque strips 13 surrounded by two components or materials, not a single or unitary cover layer.

FIG. 5



The Applicants also reiterate their previous arguments providing additional distinctions over the disclosure of Dang. As stated previously, the claims recite a marker element welded to at least one of the legs, and that the marker elements include a comparatively radiopaque material filling completely enclosed by a unitary cover layer of a metal or metal compound including material other than the comparatively radiopaque material together forming a core filled wire. The legs and the marker elements are two distinctly separate claim elements. The Applicants again maintain that the struts of Dang should not be used to serve as both the legs and the marker elements of the claims.

In short, a core filled wire with a unitary cover layer and a unitary core form a different structure that a strut with a groove that is filled with radiopaque material that is later on covered with the material of the strut.

Thus. amended independent Claims 2 and 20 are allowable. Claims 3-4, 6, 9, 11, 12, and 21-24 are dependent on allowable independent Claim 2, and therefore are also allowable. Applicants request that the Examiner withdraw this rejection.

Claim 5 was also rejected under 35 U.S.C. 103(a) over Dang as applied to Claim 2, in view of Kranz. Claim 5 depends directly from amended independent Claim 2 and incorporates all of the limitations from this claim. As discussed above, Dang does not disclose or suggest a unitary core marker element having a comparatively radiopaque material filling the interior and completely enclosed by a unitary cover layer, and Kranz does not disclose a stent having a unitary marking element where the metal forming the carrier structure and the unitary cover layer are each made from a material that is at least partially a titanium nickel alloy. Therefore,

Claim 5 is allowable over Dang and Kranz, alone or in combination, and the rejection should be withdrawn for these reasons and the reasons discussed above.

Claims 1 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Callol. Claim 1 now being cancelled. Applicant submits that Callol fails to teach or suggest "a stent having ... at least one unitary core marker element welded to at least one leg, and wherein the at least one unitary core marker element includes comparatively radiopaque material filling the interior and completely enclosed by a unitary cover layer," as required by independent Claim 20. As illustrated above in Fig. 3 and as discussed above and in paragraph [0025], Applicant's stent includes a unitary core marker element 22 where the comparatively radiopaque material fills the interior of the unitary core marker element. In contrast, Callol does not disclose a unitary marker element where the comparatively radiopaque material fills the interior of the unitary marker element, for the same reasons discussed in detail above. Claim 2 is allowable. As claims 3-4, 9, 11, 12, and 22-24 are dependent on Claim 2, Claims 3-4, 9, 11, 12, and 22-24 are also allowable.

Claim 5 was rejected under 35 U.S.C. 103(a) over Callol as applied to Claim 2, in view of Kranz. Claim 5 depends directly from amended independent Claim 2 and incorporates all of the limitations from this claim. As discussed above, Callol does not disclose or suggest a unitary marker element where the comparatively radiopaque material fills the interior of the unitary marker element because the marker in Callol does not have an interior that forms a unitary core that is enclosed by a unitary cover layer, and Kranz does not disclose a stent having a unitary marking element where the metal forming the carrier structure and the unitary cover layer are each made from a material that is at least partially a titanium nickel alloy. Therefore, Claim 5 is allowable over Callol and Kranz, alone or in combination, and the rejection should be withdrawn for these reasons and the reasons discussed above.

Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Kranz as applied to Claim 2, in view of Callol. Claim 1 has now been cancelled and the Applicant respectfully asserts that this rejection is now moot and should be withdrawn.

Claim 20 was rejected under 35 U.S.C. 103(a) as being unpatentable over Kranz in view of Callol. Applicant submits that Kranz and Callol, alone or in combination, fail to teach or suggest "a stent having … at least one unitary core marker element welded to at least one leg, and wherein the at least one unitary core marker element includes comparatively radiopaque material filling the interior and completely enclosed by a unitary cover layer," as required by independent Claim 20. As illustrated above in Fig. 3 and as discussed above and in paragraph [0025], Applicant's stent includes a unitary core marker element 22 where the comparatively radiopaque material fills the interior of the unitary core marker element and is completely enclosed by a unitary cover layer. As discussed above, Kranz does not disclose a stent having a unitary marking element where the metal forming the carrier structure and the unitary cover layer are each made from a material that is at least partially a titanium nickel alloy, and Callol does not disclose or suggest a unitary marker element where the comparatively radiopaque material fills the interior of the unitary marker element because the marker in Callol does not have an interior that forms a unitary core that is enclosed by a unitary cover layer.

Therefore, Claim 20 is allowable over Kranz and Callol, alone or in combination, and this rejection should be withdrawn for these reasons and the reasons discussed above.

Further, Claims 3, 4, 11, and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kranz in view of Flanagan (WO 01/45578). Kranz and Flanagan, alone or in combination, fail to teach or suggest "a stent having … at least one unitary core marker element welded to at least one leg, the unitary core marker element including a comparatively radiopaque material filling the interior and completely enclosed by a unitary cover layer," as required by independent Claim 2. As illustrated above in Fig. 3 and as discussed above and in paragraph [0025], Applicant's stent includes a unitary core marker element 22 where the

comparatively radiopaque material fills the interior of the unitary core marker element and is completely enclosed by a unitary cover layer. As the Examiner concedes, Kranz does not disclose a stent having a unitary marking element where the metal forming the carrier structure and the unitary cover layer are each made from a material that is at least partially a titanium nickel alloy. Further, Flannagan does not disclose or suggest a unitary cover layer made from a material that is at least partially a titanium nickel alloy. Thus, Claim 2 is allowable over Kranz and Flanagan, alone or in combination. As Claims 3, 4, 11, and 21 are dependent on Claim 2, Claims 3, 4, 11, and 21 are also allowable.

The Applicants note that all pending claims have been demonstrated to be in allowable form, as each is distinguishable over the art or record. The issuance of a Notice of Allowance is solicited.

Respectfully submitted,

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